IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

Crl.Rev.Pet.No. 2682 of 2007()

CRA.62/06 OF III ADDL.SESSIONS JUDGE(ADHOC), FAST TRACK-I, THRISSUR
CC.1201/02 OF JFCM, KUNNAMKULAM

REVN. PETITIONER: APPELLANT/ACCUSED

VINOD, AGED 26 YEARS,
S/O. KARUVATHADATHIL PILLAI, BHATTUMURI DESOM,
KARIKKAD VILLAGE, THALAPPILLY TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENTS: COMPLAINANT/STATE

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2682 OF 2007 A

Dated this the 18th day of July, 2007

O R D E R

The revision petitioner, who was the first accused in C.C.No.1201/2002 on the file of the JFCM, Kunnamkulam, challenges the conviction entered and the sentence passed against him concurrently by the courts below for offences punishable under sections 452 and 326 read with section 34 IPC. The occurrence took place on 21.3.2002 at 3 p.m. when accused Nos.1 to 4 out of previous enmity and in furtherance of their common intention are alleged to have voluntarily caused grievous hurt to PW1 after trespassing into his house resulting in PW1 sustaining injuries including fracture of his left radius. For the said conviction, the revision petitioner was sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.1,000/- (Rupees one thousand only) and on default to pay the fine, to suffer simple imprisonment for one month for each of the aforesaid offences.

2. Eventhough the learned counsel appearing for the revision petitioner challenged the conviction recorded against him,

the said conviction has been entered by the court below after evaluation of the oral and documentary evidence in the case. In the absence of any infirmity in the appreciation of evidence by the courts below, I am not inclined to interfere with the conviction recorded and the same is accordingly confirmed.

3. What now survives for consideration is the question of adequacy or otherwise of the sentence imposed on the revision petitioner. This is a case in which the courts below have been insensitive to the need to compensate the victim of the crime. Notwithstanding the pronouncement of the Apex court in ***Hari Krishnan and State of Haryana Vs. Sukhbir Singh and others*** [AIR 1988 SC 2127] directing all criminal courts to liberally exercise the power under section 357(3) Cr.P.C., the courts below have been oblivious of the said judicial mandate. I am of the view that for the conviction recorded against the petitioner, penal servitude by way of incarceration is not warranted and that imprisonment till the rising of the court and an appropriate direction to compensate the victim shall meet the ends of justice. Accordingly, for his conviction under sections 452 and 326 IPC the revision petitioner shall undergo imprisonment till rising of the

court and shall pay compensation at the rate of Rs.5,000/-(Rupees five thousand only) and Rs.10,000/-(Rupees ten thousand only) respectively to PWs 1 and 3 respectively under section 357(3) Cr.P.C. The said compensation shall be paid within 45 days from today, failing which the revision petitioner shall suffer simple imprisonment for three months by way of default sentence. The imprisonment till the rising of the court shall run concurrently.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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